UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

JOD SELOU, Plaintiff, v. INTEGRITY SOLUTION SERVICES INC., INTEGRITY ACQUISITION, LLC, CENTRAL CREDIT SERVICES, INC., RADIUS GLOBAL SOLUTIONS, LLC, NAVIENT SOLUTIONS, INC. and LIVEVOX, INC. Defendants.	**Case No. 4:15-CV-10927-LVP-MJH** **Hon. Linda V. Parker** **Magistrate Michael J. Hluchaniuk**
Rex C. Anderson (P47068) Rex Anderson PC Attorney for Plaintiff 9459 Lapeer Rd., Ste. 101 Davison, MI 48423 (810) 653-3300 rex@rexandersonpc.net	Deborah Lujan Attorney for Defendant 4000 Town Center, 9th Floor Southfield, MI 48075 (248) 351-5417 Direct Phone (248) 351-6011 Direct Fax Deborah.Lujan@ceflawyers.com

PLAINTIFF'S SECOND AMENDED COMPLAINT

INTRODUCTION

1. Plaintiff, JOD SELOU (hereinafter, "Plaintiff" or "SELOU") brings this Complaint for damages, injunctive relief, and any other available legal or equitable remedies, resulting from the illegal actions of the below named

Defendants, in negligently and/or intentionally contacting Plaintiff on Plaintiff's cellular telephone, in violation of the Telephone Consumer Protection Act, 47 U.S.C. § 227 et seq. (Hereinafter "TCPA"). Plaintiff also brings this action for damages, against certain of these Defendants as further detailed below for violating the Fair Debt Collection Practices Act (Hereinafter "FDCPA"), 15 U.S.C. § 1692 *et seq.,* the Michigan Occupational Code (Hereinafter "MOC"), M.C.L. § 339.901 *et seq.* or alternatively the Michigan Regulation of Collection Practice Act, (Hereinafter "MRCPA") MCL 445.251 et seq., as follows, upon personal knowledge as to herself and her own acts and experiences, and, as to all other matters, upon information and belief, including investigation conducted by her attorneys.

2. The TCPA was designed to prevent calls like the ones described within this complaint, and to protect the privacy of citizens like Plaintiff. "Voluminous consumer complaints about abuses of telephone technology – for example, computerized calls dispatched to private homes – prompted Congress to pass the TCPA." *Mims v. Arrow Fin. Servs., LLC*, 132 S. Ct. 740, 744 (2012).

3. In enacting the TCPA, Congress intended to give consumers a choice as to how creditors, debt collectors and telemarketers may call them, and made specific findings that

> “[t]echnologies that might allow consumers to avoid receiving such calls are not universally available, are costly, are unlikely to be enforced, or place an inordinate burden on the consumer." TCPA, Pub.L. No. 102–243, § 11.

Toward this end, Congress found that:

> [b]anning such automated or prerecorded telephone calls to the home, except when the receiving party consents to receiving the call or when such calls are necessary in an emergency situation affecting the health and safety of the consumer, is the only effective means of protecting telephone consumers from this nuisance and privacy invasion.

Id. at § 12; *see also Martin v. Leading Edge Recovery Solutions, LLC*, 2012 WL 3292838, at* 4 (N.D. Ill. Aug. 10, 2012) (citing Congressional findings on TCPA’s purpose).

4. The TCPA gives rulemaking authority to the Federal Communications Commission (FCC) to prescribe regulations to implement the requirements of the TCPA. 47 U.S.C. § 227(b)(2).

5. The TCPA regulates the use of automated telephone equipment, also known as Automated Telephone Dialing Systems (Hereinafter “ATDS”), auto-dialers or robo-dialers, which have the capacity to store or produce

telephone numbers to be called, using a random or sequential number generator, and to dial such numbers.

6. The TCPA makes it illegal to use auto-dialers to place calls to a cellular phone other than for an emergency purpose or with the prior express consent of the called party.

7. In 2003, the FCC issued a Report and Order addressing, in part, autodialed and prerecorded message calls made to cellular telephone numbers. The FCC affirmed that, with two narrow exceptions, it is unlawful to make *any call* using an automatic telephone dialing system or artificial or prerecorded message to any wireless number. The exceptions, inapplicable to the instant case, include calls made for emergency purposes and with prior express consent. See *In Re Rules & Regulations Implementing the Tel. Consumer Prot. Act of 1991*, 18 F.C.C.R 14014, 14115-16 (2003).

8. With respect to autodialed debt collection calls, in a 2008 Declaratory Ruling, the FCC clarified that autodialed and prerecorded or artificial message calls to a cellular phone number by or on behalf of a creditor are permitted only if the calls are made with the prior express consent of the called party. Prior express consent is deemed to be granted only if the wireless number was provided by the consumer to the creditor, and provided during the transaction that resulted in the debt owed. *In the Matter of Rules*

and Regulations Implementing the Tel. Consumer Prot. Act of 1991, 23 F.C.C.R. 559, 564-65 (2008).

9. Although the collection industry has argued to the contrary, the TCPA prohibitions are not limited to telemarketing calls; debt-collection calls are covered. *Mims v Arrow Financial Services, LLC,* U.S. Supreme Court, 421 Fed. Appx. 920 (2012), *Brown v. Hosto & Buchan, PLLC*, 748 F.Supp.2d 847 (W.D. Tenn. 2010); *In re Rules & Regulations Implementing Telephone Consumer Protection Act of 1991, Request of ACA International for Clarification and Declaratory Ruling*, 23 F.C.C.R. 559, 561 (2008) ("ACA Declaratory Ruling"); *Brown v. Enterprise Recovery Systems, Inc*., No. 02-11-00436-CV, 2013 WL 4506582, *5 (Tex.App. Aug. 22, 2013).

10. A predictive dialer constitutes an automatic telephone dialing system within the meaning of the TCPA. *See In the Matter of Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991,* F.C.C. 07-232, 23 F.C.C. R. 559, 566 ¶ 12 & 13 (Dec. 28, 2007) released Jan. 4, 2008). In that Ruling, the Federal Communications Commission ("FCC") for a second time rejected the position that a predictive dialer only meets the definition of an ATDS when it randomly or sequentially generates numbers. Rather, it stated "In this Declaratory Ruling, we affirm that a predictive dialer constitutes an automatic telephone system and is subject to

the TCPA's restrictions on the use of auto-dialers." 23 F.C.C. R. 559, 566 ¶ 12.

11. Dead air calls are the mark of predictive dialers. As stated by the FCC, "The record before us revealed that consumers often face "dead air" calls and repeated hang-ups resulting from the use of predictive dialers." Rules and Regulations Implementing the Telephone Consumer Protection Act of 1991, 70 Fed. Reg. 19330, 19334 (April 13, 2005).

JURISDICTION AND VENUE

12. Jurisdiction of this Court arises because of the Defendants' removal of this action which Plaintiff originally filed in State court and under Michigan Occupation Code ("MOC"), M.C.L. § 339.901et seq., alternatively the Michigan Regulation of Collection Practices Act ("MRCPA"), MCL § 445.251et seq. (pursuant to 28 U.S.C. § 1367 for pendent state law claims), the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692k and the Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. § 227.

13. Venue is proper in this District/County because Plaintiff resides in this District/County, the harm to Plaintiff occurred in this District/County, and Defendants conduct business there.

PARTIES

14. Plaintiff SELOU is, and at all relevant times mentioned herein, a natural person who resides in the City of Grand Blanc, County of Genesee, State of Michigan and who is protected under the FDCPA from harassment, oppression and abuse in connection with the collection of a debt and is a "consumer" as that term is defined by the FDCPA, 15 U.S.C. § 1692a(3), the MOC and the MRCPA.

15. SELOU is a "recipient" and / or "called party" under the TCPA pursuant to 47 U.S.C. § 227.

16. Defendant INTEGRITY is, based upon information and belief, a Missouri corporation with an address of 20 Corporate Hills Drive, Saint Charles, MO., 63301 and is a "debt collector" as that term is defined by 15 U.S.C. § 1692a(6), MCL 339.901 (b) of the Michigan Occupational Code (or alternatively a regulated person as that term is defined by the MRCPA, MCL 445.251(g).

17. Defendant INTEGRITY is defined as "any person," prohibited from auto-dialing cellular phone devices pursuant to 47 U.S.C. § 227(b)(1)(iii).

18. INTEGRITY made illegal collection calls to Plaintiff's cell phones between April and June 2014.

19. Upon information and belief, INTEGRITY used and maintained a website at https://www.integritysolutionservices.com/.

20. According to the website, https://www.integritysolutionservices.com/, there appears the statement: “Central Credit Services A Subsidiary of RadiusGS Formerly Integrity Solution Services”.

21. According to the website, https://www.integritysolutionservices.com/, the heading of the home page of the website is titled “Central Credit Services”.

22. Integrity Acquisition, LLC ("IA") is an active Florida LLC with a principal place of business located at 50 West Skippack Pike, Ambler PA 19002.

23. IA lists its Florida principal office address as 9550 Regency Square Blvd, Suite 500, Jacksonville, FL 32225.

24. IA regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and is a “debt collector” as the term is defined and used in the FDCPA.

25. IA is a “collection agency” and “licensee” as the terms are defined and used in MOC. Alternatively, IA is a “regulated person” as the term is defined and used in the MRCPA.

26. Upon information and belief, the sole member of IA is Radius Global Solutions, LLC ("Radius"). Radius is an active State of Pennsylvania

Limited Liability Company with a registered office at the same address as Integrity Acquisition, to wit: 50 West Skippack Pike, Ambler, PA 19002.

27. According to Radius' State of Florida certificate of doing business filing, two members have authority to manage Radius, to wit: TRDS Holdings, LLC, a Pennsylvania LLC with same address as IA, 50 West Skippack Pike, Ambler, PA 19002, and James Eccleston, also with the same address as IA, 50 West Skippack Pike, Ambler, PA 19002.

28. Radius maintains a website at www.radiusgs.com.

29. Radius regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.

30. Radius is a "debt collector" as the term is defined and used in the FDCPA.

31. Radius is a "collection agency" and "licensee" as the terms are defined and used in MOC. Alternatively, Radius is a "regulated person" as the term is defined and used in the MRCPA.

32. Central Credit Services, Inc. (Hereinafter "CCS") is an active State of Florida corporation.

33. According to its 2014 Florida Profit Corporation Annual Report, CCS shares the same principal office address as IA, namely 9550 Regency Square Blvd, Suite 500, Jacksonville, FL 32225.

34. CCS is a subsidiary of Radius. The president of CCS is James Eccleston, who is also a member of Radius.

35. CCS maintains an internet website at www.ccscollect.com.

36. On April 6, 2015, on its website, CCS stated that it was formerly “Integrity Solution Services”.

37. After April 15, 2015, this statement does not appear on its website.

38. CCS also lists on its website, www.ccscollect.com, that its address is 9550 Regency Square Blvd., Suite 602, Jacksonville, FL 32225.

39. CCS regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.

40. CCS is a “debt collector” as the term is defined and used in the FDCPA.

41. CCS is a “collection agency” and “licensee” as the terms are defined and used in MOC. Alternatively, CCS is a “regulated person” as the term is defined and used in the MRCPA.

42. CCS is defined as “any person,” prohibited from auto-dialing cellular phone devices pursuant to 47 U.S.C. § 227(b)(1)(iii).

43. CCS made illegal collection calls to Plaintiff’s cell phones between July and November of 2014,

44. Defendant, LiveVox is a foreign corporation doing business in Michigan, with its principal place of business located in San Francisco, California.

45. CCS partners with LiveVox, in creating and developing its automated dialing collection campaigns.

46. LiveVox provides the automated dialing software systems for CCS.

47. LiveVox also provides Interactive Voice Response ("IVR") systems (LiveVox website IVR page: http://www.livevox.com/applications/ivr/ downloaded June 29, 2015), which use pre-recorded voices to guide people through various menus in a telephone communication system.

48. On information and belief, and as reflected in the account collection notes of CCS, CCS utilizes the LiveVox IVR technology for its prerecorded voice messaging communications and computer generated calls.

49. The LiveVox system is an ATDS under the TCPA. See *Lardner v. Diversified Consultants, Inc.*, 2014 WL 1778960 *5 (S.D.Fla. May 1, 2014). *Davis v. Diversified Consultants, Inc.*, 2014 WL 2944864 (D. Mass. June 27, 2014)("the Livevox system, as utilized by Defendant, was an ATDS" at *5; *Echevvaria v. Diversified Consultants, Inc.*, 2014 WL 929275 (S.D. N.Y. Feb. 28, 2014), at *5-7. *Haire v Sprint Communications Co., L.P., et al.,* 2:13-cv-00701(N.D. Ala. March 31, 2015).

50. In *Echevvaria v. Diversified Consultants, Inc.*, 2014 U.S. Dist. LEXIS 32136 (S.D. N.Y. Feb. 28, 2014) the Court issued an extensive written decision holding that LiveVox uses a predictive dialer which is an ATDS within the meaning of the TCPA, and granted summary judgment to the Plaintiff.

51. Likewise, the *Davis* court citing *Echevvaria,* found that "it is undisputed that LiveVox is a 'predictive dialer' that dials from lists of numbers … viewing the facts in the light most favorable to defendant, the evidence demonstrates that defendant used an ATDS to call plaintiff, without his prior consent. Accordingly, plaintiff is entitled to summary judgment that defendant violated § 227 of the TCPA." *Davis v. Diversified Consultants, Inc.*, 36 F. Supp. 3d 217, at 226 (D. Mass. 2014).

52. Defendant, Navient Solutions, Inc. ("Navient") is a corporation which was formed in Delaware with its principal place of business in Reston, Virginia and regularly does business in the State of Michigan. The registered agent for Navient in Michigan is CSC - Lawyers Incorporating Service (Company), located at 601 Abbott, East Lansing, Michigan 48823.

53. Navient uses interstate commerce and the mails in a business the principal purpose of which is the service and collection of student loan debts.

54. Navient is the loan servicer for SLM Corporation a/k/a Sallie Mae. Navient is a "spin off" of SLM Corporation a/k/a Sallie Mae.

55. Navient acquired the subject debt after it was in default.

56. The acts of INTEGRITY, as described herein, were conducted on behalf of Defendants IA, Radius and Navient, and with the consent, approval, and/or ratification of each of them, as those actions relate to Plaintiff.

57. The acts of Defendant CCS, as described herein, were conducted on behalf of Defendants IA, Radius and Navient, and with the consent, approval, and/or ratification of each of them, as those actions relate to Plaintiff.

58. At all times herein mentioned, Defendant INTEGRITY was, and is now, the agent, servant, employee, and/or other representative of the Defendants IA, Radius and Navient, and in doing the things herein alleged, was acting in the scope, purpose, and authority of such agency, service, employment, and/or other representative capacity with the permission, knowledge, consent, and/or ratification of Defendants IA, Radius and Navient.

59. At all times herein mentioned, Defendant CCS was, and is now, the agent, servant, employee, and/or other representative of the Defendants IA,

Radius and Navient, and in doing the things herein alleged, was acting in the scope, purpose, and authority of such agency, service, employment, and/or other representative capacity with the permission, knowledge, consent, and/or ratification of Defendants IA, Radius and Navient.

60. Any reference hereinafter to “Defendant” or “Defendants” without further qualification is meant to refer to each and all Defendants herein jointly and severally.

FACTUAL ALLEGATIONS

61. Integrity Acquisition, LLC (IA) claims to have purchased all the assets of Integrity Solutions, Inc. on or about July 23, 2014.

62. Radius also claims to have purchased Integrity Solutions, Inc.

63. In a blog on its website, http://www.radiusgs.com/. dated August 21, 2014, Radius states the following: "July 25, 2014 – Radius Global Solutions LLC (Radius), a leading provider of Accounts Receivable Management (ARM), Customer Relationship Management (RCM) and Healthcare Revenue Cycle Management (HRCM) services, announced today that it has acquired the assets of Integrity Solution Services, Inc. (Integrity), a St. Charles, MO-based provider of ARM and CRM. Additionally, RGS announced that it has acquired Veldos, LLC (Veldos), a Wayne, PA-based provider of ARM, CRM and HRCM. Financial terms of the two transactions

were not disclosed."

64. Defendants act jointly and in concert to collect consumer debts incurred primarily for personal, family, or household purposes.

65. Defendants, Radius and IA assumed responsibility (either impliedly or expressly) for the actions of INTEGRITY.

66. At all relevant times, Defendants were a debt collector as that term is defined by *15 U.S.C. §1692a(6)*, and repeatedly contacted Plaintiff in an attempt to collect a debt.

67. At all relevant times, Defendants acted through its duly authorized agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

68. At all times relevant to this complaint INTEGRITY sought to collect a "consumer" debt.

69. Plaintiff's debt arose from a transaction with a Creditor which was primarily for family, personal or household purposes to wit, student loans with Sallie Mae and which meets the definition of a "debt" under 15 U.S.C. § 1692a(5) as well as under the cited state statutes.

70. The defaulted debt was assigned, transferred or sold to Navient.

71. Starting sometime in late 2011 or early 2012, Defendant INTEGRITY commenced collection activity by dialing plaintiff's cell phone with the use of an automated telephone dialing system to collect a student loan debt.

72. In 2012, Plaintiff agreed to make payments and INTEGRITY temporarily ceased collection calls.

73. Sometime during the spring months of 2014, plaintiff stopped making payments after which INTEGRITY commenced placing numerous telephone collection calls to Plaintiff's cellular telephone numbers, (786) 505-8216 and (810) 845-1916 with the use of its automated telephone dialing system (hereinafter "ATDS") in an attempt to collect a debt

74. INTEGRITY continued its collection calls through June 2014 after which the plaintiff's debt was transferred or assigned to CCS for collections.

75. Thereafter commencing in July 2014, CCS identified itself as the collection agency taking over to collect the plaintiff's student loan debt, and repeatedly called Plaintiff in its attempts to collect the debt.

76. CCS, along with and through its affiliate LiveVox, engaged in the same harassing and repeated collection calling as INTEGRITY.

77. LiveVox was involved in creating and/or implementing CCS's procedure relating to contacting consumers, including Plaintiff, using an automatic telephone system or using an artificial or prerecorded voice.

78. Both INTEGRITY and CCS also placed numerous calls to Plaintiff's place of employment and discussed Plaintiff's debt with her co-workers.

79. Plaintiff requested both INTEGRITY and CCS, orally to stop calling her and her parent's telephones and her place of employment and despite this, Defendants continued to call.

80. On May 26, 2013, Plaintiff requested in writing, INTEGRITY to "please stop calling my "number on file … I am being harassed at work. Send all correspondence by mail – 9251 Warwick Woods Ct, Grand Blanc, MI 48439."

81. Both INTEGRITY and CCS continued to place collection calls to Plaintiff's cell phones despite receipt of her written cease and desist letters in violation of *§ 1692c(c) After written notification that consumer refuses to pay debt, or that consumer wants collector to cease communication.*

82. At various times during the years 2012 - 2014, Plaintiff allowed INTEGRITY to withdraw automated payments from her bank account so she could pay down her student loan debts and stop the harassing calls to her and her family and employer.

83. INTEGRITY attempted to withdraw larger amounts then agreed to and when Plaintiff cancelled bank transfer payments INTEGRITY began

automated collection calls to Plaintiff's cell phones despite having received her written communication from Plaintiff requesting no further calls.

84. Despite written and oral requests to stop, DEFENDANTS INTEGRITY and CCS continued calling Plaintiff and Plaintiff's related third parties in an attempt to collect a debt which Plaintiff disputed as to the amount owing.

85. INTEGRITY and CCS also called the business telephone number of Plaintiff's place of employment on multiple occasions despite Plaintiff's requests that they stop calling her place of employment.

86. INTEGRITY's debt collectors told Plaintiff's co - workers that it was an emergency and to have Plaintiff immediately return the calls.

87. Neither INTEGRITY nor CCS ever stated to Plaintiff's employer and co-employees that they were "calling to correct or confirm location information".

88. A debt collector when communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall identify himself, state that he is confirming or correcting location information concerning the consumer, and, only if expressly requested, identify his employer. 15 U.S.C. § 1692b(1).

89. INTEGRITY and CCS failed to comply with 15 U.S.C. § 1692b(1), violating the FDCPA.

90. A debt collector when communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall not state that such consumer owes any debt. 15 U.S.C. § 1692b(2).

91. INTEGRITY and CCS failed to comply with 15 U.S.C. § 1692b(2), violating the FDCPA.

92. A debt collector when communicating with any person other than the consumer for the purpose of acquiring location information about the consumer shall not communicate with such person more than once unless requested to do so by such person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete location information. 15 U.S.C. § 1692b(3).

93. INTEGRITY and CCS failed to comply with 15 U.S.C. § 1692b(3), violating the FDCPA.

94. Both INTEGRITY and CCS ignored Plaintiff's request as well as the requests of Plaintiff's parents to stop calling.

95. Both INTEGRITY and CCS, each placed between 20-30 calls to plaintiff's parents.

96. INTEGRITY and CCS's prohibited third party contacts caused Plaintiff much distress, embarrassment and strain in her family relations and were intended to harass and coerce Plaintiff into paying.

97. Plaintiff attempted to answer calls from INTEGRITY and CCS but on many occasions after picking up she would only hear dead air prior to the call being disconnected.

98. INTEGRITY and CCS' harassing calls originated from telephone numbers including, but not limited to 216-278-0060, 201-244-7134, 313-355-1801, 313-879-1146, 313-879-3382, and 313-879-3379.

99. On many occasions, Defendants' telephone calls put forth caller ID which was false and misleading and led the Plaintiff to believe the calls were originating from the local area instead INTEGRITY and CCS's call centers located out of state.

100. Plaintiff's cellular telephone number was assigned to a . . . cellular telephone service as the phrase is used in the TCPA, 47 U.S.C. §227(b)(1)(A).

101. Upon information and belief, the calls from Defendants to Plaintiff's cellular phone were made using an automatic telephone dialing system

("ATDS") which had the capability to store and dial telephone numbers in a random or sequential order without human intervention as defined by 47 U.S.C. § 227(a)(1) and/or used an artificial or prerecorded voice prohibited by 47 U.S.C. § 227(b)(1)(A).

102. Defendants, INTEGRITY and CCS, used an automatic telephone dialing system as defined at 47 C.F.R. 64.1200(f)(1) to make the above-described calls to Plaintiff's cellular telephone with its ATDS.

103. Defendants, INTEGRITY and CCS made repeated automated calls to SELOU'S cell phone in violation of the TCPA's prohibitions on automated calls to cell phones. See 47 U.S.C. 227(b).

104. Defendants, INTEGRITY and CCS used an artificial or prerecorded voice as the phrase is used in the TCPA, 47 U.S.C. §227(b)(1)(A), to communicate with plaintiff during its collection attempts.

105. Plaintiff believes that Defendants, INTEGRITY and CCS' calls were placed to her cell phone with the use of an ATDS because Defendants used artificial and pre-recorded voice messages/Interactive Voice Recognition (IVR) with a high percent of the calls, which Plaintiff answered, being abandoned.

106. On these calls Plaintiff heard clicking noises, dead air and experienced delays on her cell phone during the time that the pre-recorded

message informed Plaintiff to stay on the line to get connected [with a live operator].

107. None of the above-described calls made by Defendants, INTEGRITY and CCS to Plaintiff's cellular telephone were made for emergency purposes as the phrase is used in the TCPA, 47 U.S.C. §227(b)(1)(A).

108. Defendants, INTEGRITY and CCS did not obtain Plaintiff's prior express consent as the phrase is used in the TCPA, 47 U.S.C. §227(b)(1)(A) to make the above-described calls to Plaintiff's cellular telephone.

109. Defendants, INTEGRITY and CCS did not have an established business relationship with Plaintiff as the phrase is used in the TCPA, 47 U.S.C. §227(a)(4) when Defendants made the above-described calls to Plaintiff's cellular telephone.

110. Defendants, INTEGRITY and CCS are not a tax exempt nonprofit organization as the phrase is used in the TCPA, 47 U.S.C. §227(a)(4).

111. Plaintiff did not provide her cellular telephone number to Defendants, INTEGRITY and CCS.

112. Plaintiff did not provide her cellular telephone number to the entity on whose behalf Defendants, INTEGRITY and CCS were attempting to collect the alleged debt from Plaintiff and/or revoked her consent to being robo-dialed on her cell phone.

113. Defendants, INTEGRITY and CCS used an automatic telephone dialing system as defined by 47 U.S.C. §227(a)(1) to make the above-described calls to Plaintiff's cellular telephone, without Plaintiff's prior express consent and for a non-emergency purpose, in violation of the TCPA, 47 U.S.C. §227(b)(1)(A)(iii).

114. The Federal Communications Commission (FCC) was given the authority to issue orders implementing the TCPA. The FCC has issued an order that states:

> The creditors are in the best position to have records kept in the usual course of business showing such consent, such as purchase agreements, sales slips, and credit applications. Should a question arise as to whether express consent was provided, the burden will be on the creditor to show it obtained the necessary prior express consent. **Similarly, a creditor on whose behalf an autodialed or prerecorded message call is made to a wireless number bears the responsibility for any violation of the Commission's rules. Calls placed by a third party collector on behalf of that creditor are treated as if the creditor itself placed the call**. *In re Rules Implementing the Tel. Consumer Prot. Act of 1991*, 23 FCC Rcd 559, 565 (F.C.C. 2007), paragraph 10. (Footnotes omitted) (Emphasis added).

115. Defendants, INTEGRITY and CCS knowingly violated the TCPA.

116. Defendants, INTEGRITY and CCS willfully violated the TCPA.

***Respondent Superior* Liability**

117. The acts and omissions of Defendants, INTEGRITY and CCS and the individual debt collectors employed as agents by Defendants, who

communicated with Plaintiff as described herein, were committed within the time and scope limits of their agency relationship with their principal, Defendants.

118. The acts and omissions by Defendants' agents were incidental to, or of the same general nature as, the responsibilities these agents were authorized to perform by Defendants in collecting consumer debts.

119. By committing these acts and omissions against Plaintiff, Defendants' agents were motivated to benefit their principal, Defendants.

120. Defendants are therefore liable to Plaintiff through the Doctrine of *Respondent Superior* for the intentional and negligent acts, errors, and omissions done in violation of state and federal law by its collection employees, including but not limited to violations of the TCPA and the FDCPA in Defendants' attempts to collect this debt from Plaintiff.

121. INTEGRITY, CCS, LiveVox, IA, Radius and Navient are liable to Plaintiff through the Doctrine of Respondeat Superior for the intentional and negligent acts, errors, and omissions done in violation of state and federal law by any individual employee(s) working on their behalf, including but not limited to violations of the TCPA, FDCPA and state law pled herein.

122. Plaintiff is informed and believes and based thereon alleges that all defendants, were at all relevant times acting as actual agents, conspirators,

ostensible agents, partners and/or joint ventures and employees of all other defendants, and that all acts alleged herein occurred within the course and scope of said agency, employment, partnership, and joint venture, conspiracy or enterprise, and with the express and/or implied permission, knowledge, consent, authorization and ratification of their co-Defendants; however, each of these allegations are deemed "alternative" theories whenever not doing so would result in a contraction with the other allegations.

COUNT I

Negligent Violation of the Telephone Consumer Protection Act

123. Plaintiff re-alleges the aforementioned paragraphs above as if fully set forth herein, and further states:

124. Defendants' use of an automatic telephone dialing system and/or an artificial or prerecorded voice when calling Plaintiff's cellular telephone constitutes numerous and multiple negligent violations of the TCPA, 47 U.S.C. 227 *et seq.*

125. As a result of Defendants' negligent violations of the TCPA, Plaintiff is entitled to an award of $500.00 in statutory damages for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B).

126. Plaintiff is also entitled to and seeks injunctive relief enjoining Defendants from further violations of TCPA.

COUNT II

Willful Violation of the Telephone Consumer Protection Act

127. Plaintiff re-alleges the aforementioned paragraphs above as if fully set forth herein, and further states:

128. Defendants' use of an automatic telephone dialing system and/or an artificial or prerecorded voice when calling Plaintiff's cellular telephone constitutes numerous and multiple knowing and/or willful violations of the TCPA, 47 U.S.C. 227 et seq.

129. As a result of Defendants' knowing and/or willful violations of the TCPA, Plaintiff is entitled to an award of treble statutory damages, up to $1,500.00, for each and every violation pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

130. Plaintiff is also entitled to and seeks injunctive relief enjoining Defendant from further violations of TCPA.

COUNT III

Violations of the Fair Debt Collection Practices Act
15 U.S.C. § 1692 et Seq.

131. Plaintiff re-alleges the aforementioned paragraphs above as if fully set forth herein, and further states:

132. The foregoing acts and omissions of Defendants constitute violations of the FDCPA including, but not limited to, each and every one of the below cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

a. § 1692b. Prohibiting a debt collector from telling a third party that the consumer owes any debt; Prohibiting a debt collector from communicating with a third party more than once; Failing to state that the debt collector is confirming or correcting location information about the consumer.

b. § 1692c. Impermissible third party contact.

c. § 1692d. Any conduct the natural consequence of which is to harass, oppress, or abuse any person.

d. § 1692d(5). Caused the phone to ring or engaged any person in telephone conversations repeatedly.

e. § 1692e. Using false, deceptive and misleading representations and means in connection with the collection or attempted collection of a debt.

133. As a result of Defendants' violations of the FDCPA, Plaintiff is entitled to actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in an amount up to $1,000.00 each pursuant to 15 U.S.C. § 1692k(a)(2)(A); and, reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3)

COUNT IV

Violations of the Michigan Occupational Code

134. Plaintiff re-alleges the aforementioned paragraphs above as if fully set forth herein, and further states:

135. Defendants and its employees/agents are a "collection agency" or “regulated person” as those terms are defined in the Michigan Occupation Code ("MOC"), M.C.L. § 339.901(b) or alternatively, a “regulated person” under the Michigan Regulation of Collection Practices Act (“MRCPA”), MCL § 445.251(b).

136. Plaintiff is a consumer or person whom the acts were intended to protect. M.C.L. § 339.901(f) or alternatively MCL § 445.251(f).

137. Defendants have violated M.C.L. § 339.915(n) or alternatively MCL § 445.251(n) by engaging in repeated calls to Plaintiff after Plaintiff told Defendants to stop calling her.

138. The natural consequence of such repeated calling to a person who does not wish to be bothered is to harass the target of those calls.

139. Defendants' continued calls to Plaintiff after her request that Defendants stop calling her, establishes that Defendants failed to implement a procedure designed to prevent a violation by its employees; in violation of M.C.L. § 339.915(q) or alternatively MCL § 445.252(q).

140. Defendants' failure to remove Plaintiff’s cell phone numbers from its

Automated Telephone Dialing System after Plaintiff's request that Defendants stop calling her, establishes that Defendants failed to implement a procedure designed to prevent a violation by its employees; in violation of M.C.L. § 339.915(q) or alternatively MCL § 445.252(q).

141. Defendants violated MCL § 339.915(e) or alternatively MCL § 445.252(e) by making inaccurate, misleading, untrue or deceptive statements or claims in a communication to collect a debt.

142. Defendants' foregoing acts in attempting to collect this debt against Plaintiff constitute violations of the Michigan Occupation Code and Defendants are liable under general theories of agency or alternatively the MRCPA.

143. Plaintiff has suffered damages as a result of these violations of the Michigan Occupation Code or alternatively Michigan Regulation of Collection Practices Act.

144. These violations of the Michigan Occupation Code or alternatively Michigan Regulation of Collection Practices Act were willful.

COUNT V

Violations of the Michigan Regulation of Collection Practices Act (Alternative to Count IV)

145. Plaintiff incorporates the preceding allegations by reference.

146. Defendants and its employees/agents are "regulated persons" as

defined by MCL 445.251(g)(xi) in the MRCPA, MCL 445.251, et seq.

147. Plaintiff is a person whom the act was intended protect, MCL 445.251(d).

148. Defendants' foregoing acts in attempting to collect this debt against Plaintiff constitute violations of the Michigan Regulation of Collections Practices Act.

149. Plaintiff has suffered damages as a result of these willful violations of the Michigan Regulation of Collections Practices Act.

150. Defendants' violations of the Michigan Regulation of Collections Practices Act were willful.

DEMAND FOR JUDGMENT FOR RELIEF

WHEREFORE, Plaintiff SELOU requests that judgment is entered against all Defendants.

COUNTS I & II

Violations of the Telephone Consumer Protection Act 47 U.S.C. § 227et seq.

- For an award of actual damages pursuant to 47 U.S.C. §227 et seq. against Defendant and for Plaintiff;
- For an award of statutory damages pursuant to 47 U.S.C. §227 et seq. against each and every Defendant and for Plaintiff;

- For an award of treble damages pursuant to 47 U.S.C. §227(b)(3);
- Declaratory and injunctive relief prohibiting Defendants from further engaging in conduct that violates TCPA;
- An award of attorneys' fees and costs; and
- Any other such relief the Court may deem proper.

COUNT III

Violations of the Fair Debt Collection Practices Act 15 U.S.C. § 1692

- for an award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1) against each and every Defendant and for Plaintiff;
- for an award of statutory damages in addition to Count II, of $1,000.00 pursuant to 15 U.S.C. §1692k(a)(2)(A) against Defendants and for Plaintiff;
- for an award of costs of litigation and reasonable attorney's fees pursuant to 15 U.S.C. § 1692k(a)(3) against Defendant and for Plaintiff;

COUNT IV

Violations of the Michigan Occupational Code (as Alternative to Claims under the Michigan Regulation of Collection Practices Act – Count V)

- For an award of actual, treble, punitive and statutory damages from each and every Defendant for the emotional distress suffered as a result of the Michigan Occupation Code violations in an amount to be determined at trial and for Plaintiff; and
- Reasonable attorney fees and costs; and
- For such other and further relief as may be just and proper.

COUNT V

Violations of the Michigan Regulation of Collection Practices Act (as Alternative to Claims under Count IV the Michigan Occupational Code)

- For an award of actual, treble, punitive and statutory damages from each and every Defendant for the emotional distress suffered as a result of the Michigan Debt Collections Practices Act violations in an amount to be determined at trial and for Plaintiff;
- Reasonable attorney fees and costs; and
- For such other and further relief as may be just and proper.

Accordingly, Plaintiff requests that the Court:

a. Grant statutory damages;
b. Grant actual damages;
c. Grant treble damages;
d. Grant exemplary damages;
e. Grant punitive damages pursuant to the Michigan Occupation Code ("MOC"), MCL 339.901 et seq; or alternative to the MOC, for violations under the Michigan Regulation of

Collection Practice Act, MCL 445.251 et seq; and

f. Award costs and attorney fees.

Dated: October 27, 2015

Respectfully Submitted,

REX ANDERSON, PC

/s/Rex C Anderson

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